

department may allocate moneys to the Iowa agricultural experiment station for research, work projects, and investigations as needed for the specific purpose of improving the regulatory functions to improve the enforcement of this chapter.

Approved April 22, 1998

CHAPTER 1146

DEBT COLLECTION

S.F. 2188

AN ACT relating to debt collection.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 537.7103, subsection 4, paragraph b, Code Supplement 1997, is amended to read as follows:

b. The failure to disclose in the initial written communication with the debtor and, in addition, if the initial communication with the debtor is oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that information obtained will be used for that purpose, and the failure to disclose in subsequent communications that the communication is from a debt collector, except that this paragraph does not apply to a either of the following:

(1) A formal pleading made in connection with a legal action.

(2) Communications issued directly by a state bank as defined in section 524.103, a state bank chartered under the laws of any other state, a national banking association, a trust company, a federally chartered savings and loan association or savings bank, an out-of-state chartered savings and loan association or savings bank, a financial institution chartered by the federal home loan bank board, an association incorporated or authorized to do business under chapter 534, a state or federally chartered credit union, or a company or association organized or authorized to do business under chapter 515, 518, 518A, or 520, or an officer, employee, or agent of such company or association, provided the communication does not deceptively conceal its origin or its purpose.

Approved April 23, 1998

CHAPTER 1147

CIVIL LITIGATION BY INMATES AND PRISONERS

S.F. 2330

AN ACT relating to the filing of civil litigation by prisoners and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 610.1, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this section, the court shall deny the application and affidavit of an inmate who has had three or more actions dismissed pursuant to section 610A.2. Such inmate shall not be permitted to proceed without prepayment of fees, cost, or security pursuant to this chapter.

Sec. 2. Section 610A.1, subsection 1, Code 1997, is amended by adding the following new paragraphs:

NEW PARAGRAPH. e. If the inmate has unsuccessfully prosecuted three or more frivolous actions in the preceding five-year period, the court may stay the proceeding in accordance with section 617.16.

NEW PARAGRAPH. f. If the inmate has had three or more actions dismissed pursuant to section 610A.2, the inmate shall not be permitted to file an action pursuant to chapter 610.

Sec. 3. Section 610A.1, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 3. In any civil case filed by a petitioner who is an inmate or prisoner, the respondent may review the petition and, if applicable, file a pre-answer motion asserting, in addition to any other defense that must be asserted in such a motion under the rules of civil procedure, that the action or any portion of the action should be dismissed pursuant to this chapter because the action or any portion of the action is frivolous or malicious, fails to state a claim upon which relief can be granted, or is otherwise subject to dismissal under section 610A.2.

Sec. 4. Section 610A.2, subsections 1 and 2, Code 1997, are amended to read as follows:

1. In addition to the penalty provided in section 610.5, if applicable, or any other applicable penalty under the Code, the court ~~in which an affidavit of inability to pay has been filed~~ may dismiss the an action or appeal that is subject to this chapter, in whole or in part, on a finding of either any of the following:

a. The allegation of inability to pay asserted in an accompanying affidavit is false.

b. The action, claim, defense, or appeal is frivolous or malicious in whole or in part.

c. The inmate or prisoner has knowingly presented false testimony or evidence, or has attempted to create or present false testimony or evidence in support of the action, claim, defense, or appeal.

d. The actions of the inmate or prisoner in pursuing the action, claim, defense, or appeal constitute an abuse of the discovery process.

2. In determining whether an action or appeal is frivolous or malicious, the court may consider ~~whether the claim~~ the following:

a. Whether the action, claim, defense, or appeal is without substantial justification, or otherwise has no arguable basis in law or fact, including that the action, claim, defense, or appeal fails to state a claim upon which relief could be granted, or the action, claim, defense, or appeal cannot be supported by a reasonable argument for a change in existing law.

b. Whether the action, claim, defense, or appeal is substantially similar to a previous action, claim, defense, or appeal, that was determined to be frivolous or malicious, either in that it is brought against the same party or in that the claim arises from the same operative facts as a previous claim which was determined to be frivolous or malicious.

c. Whether the action, claim, defense, or appeal is intended solely or primarily for harassment.

d. The fact that evidentiary support for the action, claim, defense, or appeal is unavailable, or is not likely to be discovered after investigation.

e. Whether the action, claim, defense, or appeal is asserted with an improper purpose, including but not limited to, causing an unnecessary expansion or delay in proceedings, increasing the cost of proceedings, or harassing an opponent.

f. Whether the defendant is immune from providing the relief sought.

Sec. 5. Section 610A.3, Code 1997, is amended to read as follows:

610A.3 LOSS OF GOOD CONDUCT TIME PENALTIES.

~~1. If an action or appeal brought by an inmate or prisoner in state or federal court is determined to be malicious or filed solely to harass or if the inmate or prisoner testifies falsely or otherwise presents false evidence or information to the court in such an action dismissed pursuant to section 610A.2, or, if brought in federal court, is dismissed under any of the principles enumerated in section 610A.2, the inmate shall lose be subject to the following penalties:~~

~~a. The loss of some or all of the good conduct time credits acquired by the inmate or prisoner. Previous dismissals under section 610A.2 may be considered in determining the appropriate level of penalty.~~

~~b. If the inmate or prisoner has no good conduct time credits to deduct, the order of the court or the disciplinary hearing may deduct up to fifty percent of the average balance of the inmate account under section 904.702 or of any prisoner account.~~

2. The court may make an order deducting the credits or the credits may be deducted pursuant to a disciplinary hearing pursuant to chapter 903A at the facility at which the inmate is held.

Sec. 6. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 7. SEVERABILITY. If this Act, or any portion of this Act, is held to be unconstitutional, the remainder of this Act shall remain in effect to the fullest extent possible.

Approved April 23, 1998

CHAPTER 1148**PUBLIC UTILITY FACILITIES IN LOCAL GOVERNMENT RIGHTS-OF-WAY AND
TELECOMMUNICATIONS FRANCHISES IN CITIES**

S.F. 2368

AN ACT relating to the management of public rights-of-way by local government units, eliminating the power of cities to grant franchises to erect, maintain, and operate plants and systems for telecommunications services within the city, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 364.2, subsection 4, paragraph a, Code 1997, is amended to read as follows:

a. A city may grant to any person a franchise to erect, maintain, and operate plants and systems for electric light and power, heating, ~~telephone~~, telegraph, cable television, district telegraph and alarm, motor bus, trolley bus, street railway or other public transit, waterworks, or gasworks, within the city for a term of not more than twenty-five years. The franchise may be granted, amended, extended, or renewed only by an ordinance, but no exclusive franchise shall be granted, amended, extended, or renewed.

Sec. 2. Section 476.6, Code 1997, is amended by adding the following new subsection: **NEW SUBSECTION. 22.** A public utility which is assessed management costs by a local government pursuant to chapter 480A is entitled to recover those costs. If the public utility